IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 8TH NOVEMBER 2006 / 17TH KARTHIKA 1928

MFA.No. 1247 of 2002()

OPMV.1707/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA

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APPELLANT: 2ND RESPONDENT:

THE ORIENTAL INSURANCE COMPANY
LIMITED, MUVATTUPUZHA NOW REPRESENTED BY ITS
DEPUTY MANAGER, REGIONAL OFFICE,
METRO PALACE, KOCHI-18.

BY ADV. SRI.MATHEWS JACOB

RESPONDENTS: PETITIONER AND 1ST RESPONDENT:

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1. SHEREEFA, W/O. MYTHEEN, KANICHATTU
HOUSE, PEZHAKKAPPALLY KARA,
MULAVOOR VILLAGE.

2. MYTHEEN, S/O. ALIYAR, DO. DO.

BY ADV. SRI.SAIBY JOSE KIDANGOOR

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

M.F.A.No.1247 OF 2002

Dated this the 8th day of November, 2006

JUDGMENT

This appeal is by the insurer of a motor cycle that belonged to the first respondent in the claim petition filed by his wife, alleging that she, the pillion rider, was injured as a result of the accident in which the said motor cycle was involved.

2. The appellant insurer, who had leave under Section 170 of the Motor Vehicles Act,1988, contended before the Tribunal that apart from the exorbitant claim made, the policy was only an 'Act only' policy and that it does not cover the pillion rider. Ext.B1 policy document was placed on record and the Tribunal also noticed that it is only an 'Act only' policy.

3. Since Ext.B1 is only an 'Act only' policy, applying the ratio of the decision of the Apex Court in **United India Insurance Co. Ltd**. v. **Tilak Singh** {2006 (2) KLT 884(SC)}, the insurer is

not liable to satisfy the award as regards the pillion rider. On this ground, the appeal has to succeed.

In the result, this appeal is allowed vacating the award in so far as it is against the appellant insurer. No costs.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

M.F.A.NO.1247 OF 2002

JUDGMENT

8TH NOVEMBER, 2006.

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